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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
BURCH, MELODY M

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Joseph V. Coppola, Sr.
Honlgman, Miller, Schwartz and Cohn, LLP
32270 Telegraph Road
Suite 225
Bingham Farms, MI 48025-2457

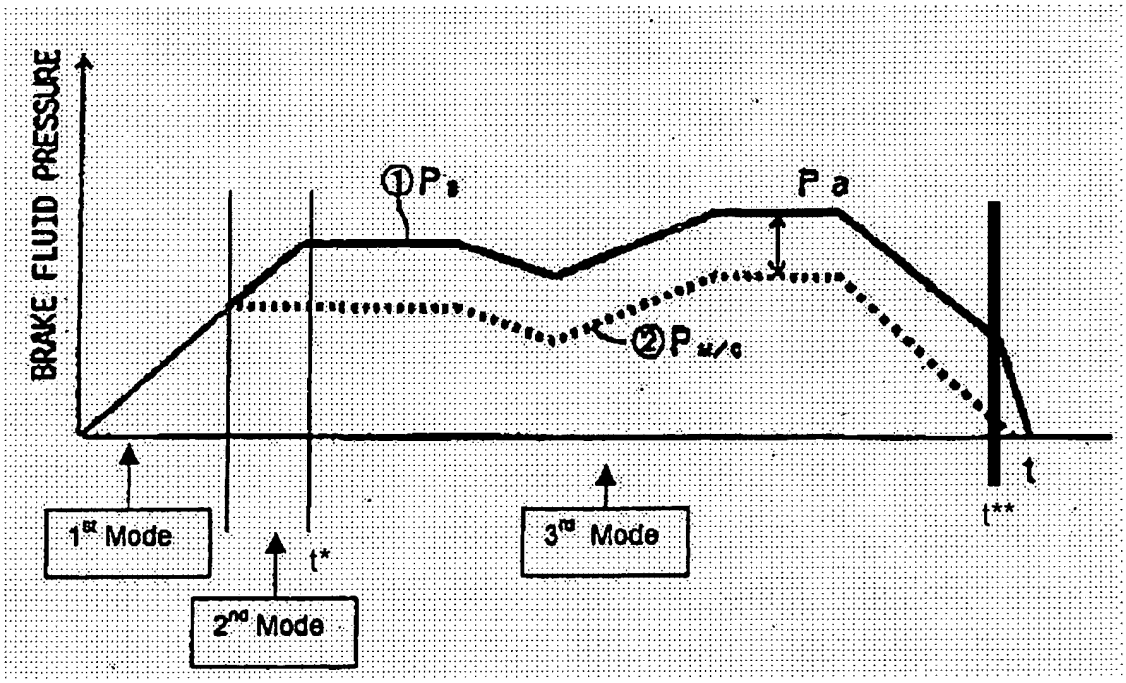
DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

1. Responsive to the remand under 37 CFR 41.50(a)(1) for reasons other than for further consideration of a rejection on 9/29/05, a supplemental Examiner's Answer is set forth below:

This action supplements the Examiner's Answer dated 3/11/04 and is response to the reply brief filed 5/11/04 that has been noted and considered.

Appellant argues that Nakanishi fails to disclose "determining a momentary value of the wheel brake pressure by multiplying a momentary value of a time-dependent excess elevation function with a momentary value of the master cylinder."



Examiner notes that Nakanishi shows above in the Examiner-labeled version of figure 3 of Nakanishi various wheel brake and master cylinder pressures at various times spanning from t=0 to t=t. In other words, the graph in the figure above shows pwheel(t) and ptmc(t) for t ranging from 0 to t. On pg. 6 line 4 of the instant application Appellant

defines the time-dependent excess elevation function K(t) in terms of pwheel(t) and ptmc(t). Specifically, Appellant discloses that pwheel(t) = K(t)*ptmc(t). Solving for K(t) yields:

$$K(t) = \frac{pwheel(t)}{ptmc(t)}$$

The formula reveals that the time-dependent excess elevation function K(t) is simply wheel brake pressure with respect to time divided by master cylinder pressure with respect to time. Since figure 3 of Nakanishi includes wheel brake pressure values with respect to time and master cylinder pressure values with respect to time, the division of the values would result in a time-dependent excess elevation function as set forth by the formula provided in Appellant's specification. The claim language does not preclude a situation in which

$$K(t) = \frac{pwheel(t) = 0.3G \text{ from } t=t^* \text{ to } t=t^{**}}{Ptmc(t)}$$

which is the situation set forth in the Examiner-labeled version of figure 3 of Nakanishi. In the time period between t** and t, pwheel(t) and ptmc(t) decrease at different rates over time resulting in a time-dependent excess elevation function that decreases over the time period. Accordingly, Examiner maintains that, as broadly claimed, Nakanishi discloses determining a momentary value of the wheel brake pressure by multiplying a momentary value of a time-dependent excess elevation function with a momentary value of the master cylinder pressure by virtue of the presence of the time-dependent wheel brake and master cylinder pressure values.

Appellant also argues that Nakanishi fails to disclose controlling the amount of excess elevation by "functionally correlating the wheel brake pressure with the monitored master cylinder pressure throughout the duration of the third mode of operation."

Examiner notes that in col. 9 lines 27-28 Nakanishi discloses that the master cylinder pressure is monitored by the ECU 10. By manipulation of the formula supplied by Appellant in the instant specification it is shown that the time-dependent excess elevation function K(t) is equal to wheel brake pressure with respect to time divided by master cylinder pressure (monitored by ECU 10) with respect to time. In the time period from t* to t** the time-dependent excess elevation function equals 0.3G. From t** to t the time-dependent excess elevation function continues to equal the ratio of wheel brake pressure with respect to time and master cylinder pressure (monitored by ECU 10) with respect to time. The only difference regarding the time period t** to t is that the time-dependent excess elevation function decreases. As shown, pwheel(t) [or the wheel brake pressure with respect to time] equals K(t) [which is constant over time period t* to t** and decreasing from t** to t] multiplied by ptmc(t) [which is monitored by ECU 10]. Accordingly, Nakanishi discloses functionally correlating the wheel brake pressure with the monitored master cylinder pressure throughout the duration of the third mode of operation.

For the above reasons, the rejections set forth in the final office action dated 6/16/03 and reiterated in the examiner's answer dated 3/11/04 have been maintained.

Appellant may file another reply brief in compliance with 37 CFR 41.41 within two months of the date of mailing of this supplemental examiner's answer. Extensions of time under 37 CFR 1.136(a) are not applicable to this two month time period. See 37 CFR 41.43(b)-(c).

A Technology Center Director or designee has approved this supplemental examiner's answer by signing below:

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 571-272-7114. The examiner can normally be reached on Monday-Friday (6:30 AM-3:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James McClellan can be reached on 571-272-6786. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mmb
October 24, 2005
Melody M. Burch
10/24/05

Approved
10/27/05
Director
3600